

REMARKS

Claims 1-5 and 7-12 remain in this case. Amendments to these claims are indicated in the Listing of the Claims above.

In all the claims, which include the misspelling of "accarding", such has been corrected to "according".

All the pending claims 1-5 and 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Webster, et al. in view of Sperendio. These rejections are respectfully traversed as discussed below.

First, we wish to discuss amendments and independent claims 1, 11 and 12. In particular, the amendments clarify that when the front and rear panels joined by the neck are folded to overlie each other, said neck, when said panels are folded, defines a tunnel. It is further recited in claim 1, for example, subparagraph b, that said support loop has its top part lying in said tunnel in said neck. Furthermore, said support loop defines a second plane, and said second plane is generally coplanar with said first plane of said panels. Finally, in subparagraph c of claim 1 there is recitation that each ring-shaped ponytail holder defines a third plane which is situated perpendicular to said first plane of said panels.

The above described elements and detailed structure in claim 1 are generally repeated in independent claims 11 and 12. It is these features which are not present and not obvious from any of the cited references, considered alone or in combination. It should be added at this time that these features were all clearly disclosed in the original application as seen in the drawings and as described in the specification. For example, in independent claims 1, 11 and/or 12, the term "tunnel" formed in the folded neck portion 22 formed by the front and rear panels 18, 20, finds support in the specification on page 4, lines 14-15.

The first, second and third planes referred to in these claims refer to the following elements:

- (a) front and rear panels folded to overlie each other define a first plane (see specification page 4, in paragraph beginning "Fig. 1 shows" and Figs. 1 and 2);
- (b) support loop defines a second plane (see specification page 5, lines 1-

3); and

(c) each ponytail holder defining a third plane (see specification page 5, lines 2-4).

The first and second planes are generally co-planar (specification page 5, lines 1-2); the third plane is generally perpendicular to said first plane (see specification page 3, lines 12-14).

The rejection asserts that Webster discloses a display package comprising a fold-over card formed from a single elongated strip, folded at the bottom to define front and rear panels joined by a neck. The rejection further asserts that Webster discloses a single support loop/wire-like element formed as a closed loop which defines a second plane, said plane of said loop being generally coplanar with said plane of said panels, allegedly as seen in Fig. 4 of Webster. As we will explain below, Fig. 4 cannot be accurate because the support loop in Webster must be at an angle relative to the plane of the panels.

On page 3, in the first full paragraph of the Office Action the rejection states that Webster does not disclose a plurality of ring-shaped hyphen holders that hang below the fold-over card, where each ponytail holder defines a third plane generally perpendicular, not coplanar to the first plane of the panels. The rejection cites Sperandio, and for clarity in our discussion below, we have attached an annotated copy of Figs. 1-4 of Sperandio as Exhibit A. It is requested that these Figures be noted in connection with the remarks below. The rejection states "however, Sperandio discloses a necklace a defined as a support loop...and a pendant holder defined as a ring-shaped holder b... wherein the support loop/wire-like element a extends through the bore at the holder b so that it a does not disengage from the support loop b. The holder b is also capable of defining a plane perpendicular/not coplanar to the plane of the support loop a (see Sperandio Fig. 3 generally). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the support loop...of Webster with the support loop and ring-shaped holder... of Sperandio". This last assertion in the office action statement is specifically traversed as will be explained below; the a and b notations have been added merely to clarify which elements were being referred to.

In Webster, the wire loop 12 does not lie in a tunnel-like portion of the neck, but necessarily is instead at an angle to the plane of the tunnel, because it intersects or passes through aperture or hole 18. Webster states, in column 2, lines 15 through 20, that Fig. 3 is a plan view of the fold over card of Fig 1, and Fig. 4 is a cross section taken along line 4-4 of Fig. 3. This being the case, it is impossible for wire 12, which in fact is the jewelry itself and is not a support loop for jewelry, to lie in a plane coplanar with the plane of the panels of the card. For this reason in particular, the proposed combination of Webster and Sperandio cannot satisfy this structure cited in claims 1, 11 or 12 of the present application.

Furthermore, the wire 12 of Webster is not a support wire, but is in fact the jewelry and therefore, Webster alone cannot meet the claims. The idea of using the loop 12 of Webster to support still other additional elements of jewelry as generally shown in Sperandio, is clearly not obvious and not practical. The display card of Webster is to display and sell a particular item of jewelry, and at no time would the jewelry itself be used to support still other jewelry hanging from the same card.

Thus, even if Sperandio was combined with that of Webster, the result still would not have the support wire parallel or coplanar with the plane of the card, and consequently, any jewelry such as a ponytail holder hanging from the support wire in Sperandio or in the combination of Webster and Sperandio, would not be perpendicular to the plane of the card.

Additionally, the proposed combination of Sperandio with Webster is believed to be improper because Sperandio discloses an article of jewelry, where a pendant hangs from a necklace, and there is no concept of displaying jewelry for sale on a display card.

The arguments presented in applicant's prior response dated April 19, 2006 on pages 6 through 8 are reiterated and incorporated herein by reference.

Claims 2, 3, 4, 5, 6, 7, 8, 9 and 10 are dependent on claim 1 and are believed to be patentable over the cited references for the same reasons as described above in regard to claim 1 and because these dependent claims have still additional structural components.

In view of amendments herein and arguments presented, it is believed that all

Appl. No. 09/916,178
Amdt. Dated: November 27, 2006
Reply to Office Action of July 3, 2006

AFS 308,711

of the pending claims are patently distinguishable over the cited art and are in condition for allowance. Accordingly, it is respectfully requested that the claims be reconsidered.

Respectfully submitted,
ABELMAN, FRAYNE & SCHWAB
666 Third Avenue
New York, NY 10017-5621

By: 

J. David Dainow
Registration No. 22,959
(tel.) 212-949-9022
(fax) 212-949-9190
(e-mail) jdainow@lawabel.com

dainow/Shalom/Amend_After_Final_Nov 27_308,711